

Appl. No. : 10/008,791
Filed : November 13, 2001

REMARKS

Applicant respectfully requests reconsideration of the application in view of the following remarks.

Previous Declaration of Yvon Le Henaff

The Examiner has objected to the Declaration previously submitted with the response filed on April 11, 2003 because the Declaration was dated 06/03/03 so that it was unclear whether the date was June 3, 2003 or March 6, 2003. Applicants submit herewith a duplicate of the previously submitted Declaration (duplicate of First Declaration/ Attachment A), clearly dated August 18, 2003. It is respectfully submitted that the Declaration be entered into the record.

Rejection under 35 U.S.C. § 103(a)

Claims 1-25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rasche, et al. in view of Bertho, et al.

A well-known tenet of patent law is that evidence of unexpected results can rebut a *prima facie* case of obviousness. See M.P.E.P. Section 716.02(a). "Usually, a showing of unexpected results is sufficient to overcome a prima facie case of obviousness" see M.P.E.P. at 2144.08 citing *In re Albrecht*, 514 F.2d 1389, 1396, 185 U.S.P.Q. 585, 590 (CCPA 1975).

The Examiner's attention is directed to a Declaration filed herewith, dated September 4th 2003 (Second Declaration/ Attachment B). In the Declaration, results obtained using the method of the cited primary reference (Rasche, et al.) where the sugar is "dried" are compared to Applicants' method which does not require drying of the sugar. Test nos. 1 and 3 relate to the "Rasche" process while test nos. 2 and 4 relate to Applicants' claimed process. As can be seen from the Conclusion on page 3, the prior art "Rasche" process resulted in low yield of fusel glycoside, a high amount of sugar waste and a long reaction time. Thus, by the practice of Applicants' claimed method, higher yields of product may be achieved in a shorter reaction time and without the extra step of drying the sugar. This result was totally unexpected and could not have been predicted based upon Rasche, et al. who teach that "it is critical that undissolved saccharide be present in the reaction mixture during the process" (col. 4, lines 24-25). That Applicants' method may be performed without undissolved saccharide in the reaction mixture was unexpected in view of the teaching of Rasche, et al. Further, Rasche, et al. teach that although the saccharide may be added as a liquid in solution with alcohol and water, the solution

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must be dried to remove the water (see col. 3, lines 58-66). Consequently, it was not expected that the claimed process could be performed without drying the sugar. It was even more unexpected that the method as claimed could achieve higher yields in shorter reaction times than the prior art process as represented by Rasche, et al. (see Second Declaration). Applicants' claimed method provides the advantages of shorter reaction time and higher yields without the extra step of drying the sugar.

Regarding the compositions of claims 15-24, the Examiner's attention is directed to the Declaration, signed August 18, 2003 and submitted herewith (Third Declaration/ Attachment C). The third Declaration demonstrates the synergistic effects of a fusel glycoside adjuvant produced according to the claimed invention and an alkyl polyglycoside in solubilization, that is, the synergistic effects of the components of a composition according to claims 15-24. By the test described in the Third Declaration, the effectiveness of a given composition on increasing the solubility of a test dye (Sudan Red) is measured. As can be seen by the graph on page 2 of the Third Declaration, the solubility of the test dye in either the fusel glycoside or the alkyl polyglycoside alone is less than 1.0 mmole of dye per mmole of total alkyl polyglycoside.

However, by mixing the two components as claimed, that is, the fusel glycoside and the alkyl polyglycoside, an increase in solubility of the dye is observed that is about 45 times the solubility of the dye in the fusel glycoside alone and about 6 times the solubility of the dye in the alkyl polyglycoside alone. This effect was not expected based upon the solubility of the dye in either the fusel glycoside or the alkyl polyglycoside detergent alone.

In view of Applicants' arguments and evidence of unexpected results as discussed above and presented in the Second and Third Declarations, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

CONCLUSION

In view of the foregoing Remarks and the Declarations, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Sept. 23, 2003

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